



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, June 10, 2020 9:00 a.m. - Room 119

Charlotte County Administration Center

18500 Murdock Circle, Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Board Member:

Steve Vieira, Secretary
William Abbatematteo, Vice-Chair
Larry Fix
Blair McVety, Chair
John Doner

Staff:

Shaun Cullinan, Planning/Zoning Official
Thomas David, Asst. Co. Attorney
Stacy Bjordahl, Asst. Co. Attorney
Ken Quillen, AICP, Sr Planner
Elizabeth Nocheck, AICP, Sr. Planner
Diane Clim - Recorder

I. Call to Order

Chair McVety called the June 10, 2020 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. Pledge of Allegiance

Chair McVety led the members and the audience in reciting the Pledge of Allegiance.

III. Roll Call

Roll call was taken; a quorum was present.

IV. Swearing In of Those Giving Testimony

Diane Clim swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: A motion was presented by Mr. Fix and seconded by Mr. Abbatematteo to approve the minutes of the March 11, 2020 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the June 10, 2020 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Chair McVety introduced staff. Shaun Cullinan, Planning and Zoning Official, read the Zoning rules, Asst. County Attorney David and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. New Business

The following petitions were advertised on May 26, 2020: VAR-20-006, SE-20-004, SE-20-008 and SE-20-019

VAR-20-006

Robert Berntsson, agent for Charles and Lue Ann Bruggemann, is requesting a variance to reduce the required 7.5 foot side yard setback by 1.7 feet to allow a 5.8 foot side yard setback to allow an existing pool cage to remain "as is" in the Residential Single Family-5 (RSF-5) zoning district. The property address is 31 Bunker Court, in the Rotonda West area and is described as Lot 389 of Rotonda West Pebble Beach Subdivision, located in Section 22, Township 41 South, Range 20 East.

Ken Quillen read into the record the staff report and staff findings for the petition.

Applicant Presentation

Robert Berntsson, agent for the applicant, said he was sworn in. Mr. Berntsson said this case came to be when a contract for sale of this house was entered into, and they had a survey. The survey shows a setback violation. Upon finding this out, we applied for this variance. We request approval of this variance and agree with the staff report and conditions.

Chair McVety opened the meeting to Public Hearing.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Vieira. The public hearing was closed with a unanimous vote.

Ken Quillen presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Larry Fix and seconded by William Abbatematteo that Petition VAR-20-006 be APPROVED based on the Community Development Staff Report dated June 3, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with three conditions recommended by staff.

Motion was approved with a unanimous vote with the following three conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 7.5-foot side yard setback by 1.7 feet to allow a 5.8-foot side yard setback, and to allow the existing pool cage to remain "as is" and to bring the existing non-conforming setback into conformity with code.
2. The variance shall only apply to the existing pool cage as shown in the documents submitted with this application.

3. If the pool cage is removed or replaced in the future this variance shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

SE-20-004

Jason Green, agent for Daniel Farris, is requesting a special exception to allow outdoor storage of boats, travel trailers and motor vehicles, including recreational vehicles and campers in the Commercial General (CG) zoning district. The property address is 4560 Duncan Road, Punta Gorda, Florida, and is described as Tract P28-1, located in Section 25, Township 40 South, Range 23 East.

Ken Quillen read into the record the staff report and staff findings for the petition.

Mr. Vieira asked Argo Road, will that remain a gravel base road?

Mr. Quillen said that will be up to the Public Works department.

Mr. Vieira asked, according to the narrative, there is an FPL easement. It says FPL will coordinate with the applicant on allowed uses in the easement. Can you describe that this means?

Mr. Quillen said that might be a better question for the applicant, but they don't have any rights yet to use the easement.

Asst. County Attorney Thomas said the rule with easements is that the underlying property owner can use the easement so long as it does not interfere with the use of the easement rights. You don't give up your rights to the property just because you have grant an easement. They can do what ever is consistent with that PL's use.

Applicant Presentation

Jason Green, agent for the applicant, said he was sworn in. Mr. Green said we reviewed the staff report and agree with the findings and facts presented to you. We also accept the conditions of approval. To answer the easement question, there is no intention to pursue any use in that easement.

Chair McVety opened the meeting to Public Hearing.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Doner. The public hearing was closed with a unanimous vote.

Ken Quillen presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Larry Fix and seconded by Steve Vieira that Petition SE-20-004 be APPROVED based on the Community Development Staff Report dated June 3, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with nine conditions recommended by staff.

Motion was approved with a unanimous vote with the following nine conditions:

1. This special exception is to allow an outdoor storage lot only for the storage of boats, travel trailers and motor vehicles, including recreational vehicles and campers, and extends only to the land included in the Concept Plan and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development, including preliminary and final Site Plan Review and approvals.
3. Outdoor storage may not be established until all improvements are completed and a Certificate of Completion has been issued.
4. The areas allowed to be used for outdoor storage shall only be the areas identified on the final approved Site Plan.
5. Dead storage of materials or equipment, or like items, shall not be permitted.
6. A type "D" Landscape Buffer with a six-foot high sight-obscuring fence or wall, shall be constructed and planted around the outdoor storage lot.
7. The applicant shall obtain all necessary permits and approvals, as applicable to this development, including but not limited to, street access, paving, commercial fence or wall permits, storm water management, and landscape plan approval.
8. This Special Exception is granted for a term of five years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
9. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

SE-20-008

Donna and Bob Negrich are requesting a special exception to allow a total of 4,763 square foot detached accessory structure in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is 2465 Levali Street, Port Charlotte, Florida, and is described as Lots 3, 8, 9, 10, 11, and the southerly 20 feet of Lot 12, all of Block 312, of Port Charlotte Section 21 Subdivision, located in Section 18, Township 40 South, Range 22 East.

Ken Quillen read into the record the staff report and staff findings for the petition.

Applicant Presentation

Donna Negrich, applicant, said she was sworn in. Ms. Negrich said her niece and her husband owned the house on Lot 4 and also owned Lot 3. Lot 3 had the detached garage on it. They lost the house through a foreclosure. They still owned Lot 3 and the garage because that was not tied into with the loan on Lot 4 with the house. The building is not finished and meeting Code, so we offered to purchase Lot 3, add it to our property, finish it and finalize it, and it will be part of our property. It will be used for storage for some of our vehicles. We were in here a few months ago to get a variance for the easement. Mr. Bradley, the neighbor who purchased Lot 4 with the house, put a rejection on this request back in February for the variance, and he is the one who wrote in. Lot 4 house is occupied by tenants. They do not take care of it. The grass is high. We would like to put a fence up in between lots 3 and 4, to prevent them from throwing trash on Lot 4 with the garage.

Mr. McVety asked what is your timeframe for all of this?

Ms. Negrich said as long as this gets approved, we will start right away. They need to get a permit and we will be finalizing the sale next week with the attorney.

Asst. Co. Attorney David asked the applicant if she read the conditions and accepts them?

Ms. Negrich replied yes.

Chair McVety opened the meeting to Public Hearing.

Public Input

Gary McCall, who lives in the area, said he was sworn in. Mr. McCall said he received an adjacent property owner letter and was confused. He thought they wanted to put up another building. Now that he heard what is going on, he has no objection.

Will Brown, who lives in the area, said he was sworn in. Mr. Brown said he brought in pictures of the area. The pictures show a very large 3 car garage and he has a few questions. He asked if there would be any new buildings?

Ken Quillen said he labeled the 2 pictures as Exhibits G1 and G2.

Mr. Abbatematteo asked the picture of the 3 car garage, which lot is it?

Mr. McVety said that is Lot #10.

Mr. Cullinan said he received an email on Sunday May 31st, from Larry Bradley, who said the notice of public hearing is very misleading and not accurate.

The second email also from Larry Bradley. This email says thank you for your prompt response to our previous email. He feels there are only 3 options to this problem. Which he lists.

The third email is also from Larry Bradley. He wants to add the following comments. He assumes staff will approve this request and he wants to point out there has to be a number of reasons why the exemption should not be granted. He said one, part 3 of the findings states the 4,763 s.f. of accessory

structure is only 10.9% of the total proposed area. Second, this will leave him with a non-conforming structure next to him. This was from John Bradley, same email address as Larry Bradley.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Doner. The public hearing was closed with a unanimous vote.

Ken Quillen presented the recommended conditions for the petition.

Board Member Comments and Questions

Mr. Vieira said looking at the pictures that were handed in, I see the large 3 door garage looks like someone is running a commercial business out of there. The truck on the outside has commercial name on it, and I wonder if they might run a business out of this new garage they want to finish.

Ms. Negrich came up and said thank you for allowing me to reply to that. We are not running a business out of that garage or our house. We have an office in Englewood on So. McCall Road. There are times when the trucks are at our house because we have gatherings and some times they drive a commercial vehicle to our house. They are not stored here over night. We have had the County called on us, and Code comes and see's we have nothing in the garage. There is no phone in the garage. We have 5 motorcycles in there, a boat, a pick up truck and the additional garage will store more items. We have a lot of toys. You can come in and verify any time.

ACTION: A motion was presented by Larry Fix and seconded by Mr. Doner that Petition SE-20-008 be APPROVED based on the Community Development Staff Report dated June 3, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with five conditions recommended by staff.

Motion was approved with a 4 to 1 vote (Mr. Vieira voting against) with the following five conditions:

1. This special exception, as approved by the Board of Zoning Appeals, is to allow Lot 3 to be combined with Lots 8, 9, 10, 11, and the southerly 20 feet of Lot 12 and to allow a total of 4,763-square feet of accessory structures on subject property as shown on the Site Plan labeled Exhibit D. The Site Plan submitted by the applicant as part of the petition is for illustrative purposes only.
2. This special exception extends only to the lands included in the Site Plan and legal description submitted with this application.
3. All regulations of Charlotte County Code shall apply to this development as applicable, including but not limited to, the code requirements in sub-section 3-9-32(c) of the RSF zoning district.
4. This Special Exception is granted for a term of one year from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if Donna and Bob Negrich purchases Lot 3 and combines Lot 3 with their existing parcel before the Special Exception's term expires.

5. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, which comply with the zoning regulations, may be approved by the Zoning Official.

SE-20-019

Geri Waksler, agent for Linda Tetrault, is requesting a modification of an existing special exception for a private park to add additional land area to the park and allow additional permitted uses within the park located in the Residential Single Family-3.5 (RSF-3.5) and Residential Multifamily-5 (RMF-5) zoning districts. The property address is 580, 5801, 5827 and 5950 Riverside Drive, Punta Gorda, Florida. The additional land area is described as Lots 1 and 4, of Block 24, of North Cleveland Subdivision, along with the Northeasterly 15 feet of vacated Third Avenue adjacent to Block 234 and the Northwesterly half of vacated Second Street adjacent to Block 24, all located in Section 26, Township 40 South, Range 23 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Mr. Abbatematteo asked if other permits or things were needed to have these weddings and people at this site.

Mr. Cullinan explained no, they already have the permits they need. This is just for more activities like weddings and special occasions in other areas of this park, which they did not ask for years ago.

Ms. Nocheck said she met with Ms. Waksler at the site and they listened to the music to see if it was loud. She said it is by the speakers, but as you walk 25-50 feet away, the sound is less. It is not too loud and the events would end by 10:00 pm during the week and 11:00 pm on Friday and Saturday.

Applicant Presentation

Geri Waksler, agent for the applicant, said she was sworn in. **Ms. Waksler** said they are requesting a modification to the existing special exception for a private park. This modification will add some newly acquired land as well as certain specific uses to the special exception. The original special exception was approved in 2008. She discussed the original request and uses and there was sufficient parking and not much traffic. They have had a few weddings here and there. We are requesting 2 changes. In March 2019 the foundation purchased additional land adjacent to the garden southside. They purchased a residential lot that was vacant between them and an existing home. They purchased it from the owner. It is a long hike to get from this area to the sculptures in the north area. They want to add a parking area adjacent to Riverside Dr., and this parking area will also have an indoor sculpture museum. A wall and landscaping will be installed around the residential areas. There have not been any complaints from the neighbors. We accept the conditions. The original conditions are still active along with a few new ones.

Chair McVety opened the meeting to Public Hearing.

Public Input

Brenda Masters was sworn in. **Ms. Masters** said she has property on Beechwood Street. She is concerned about traffic on her street because of this new parking lot.

Ms. Nocheck showed on the aerial, where the parking lot would be and that the traffic will not be leaving out that way. It would only be for an emergency in case there is an accident at the original exit area. Otherwise, traffic should not go out that way.

Ms. Waksler said Beechwood Road was partially vacated and it does not go all the way to this site. They will not be using Beachwood Road.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Abbatematteo. The public hearing was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

ACTION: *A motion was presented by William Abbatematteo and seconded by Steve Vieira that Petition SE-20-019 be APPROVED based on the Community Development Staff Report dated June 3, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with fourteen conditions recommended by staff.*

Motion was approved with a unanimous vote with the following fourteen conditions:

1. This special exception, as approved by the Board of Zoning Appeals, is to modify SE-08-13 to expand a private park and add special events as an allowed use. This special exception extends only to the lands included in the Concept Plan and legal description submitted with this application.
2. The Concept Plan submitted by the applicant is for illustrative purposes only. All applicable regulations of County Code shall apply to this development.
3. Events such as weddings, fundraisers, and other social gatherings must end by 10:00 PM on Sundays through Thursdays and by 11:00 PM on Fridays and Saturdays.
4. Any outdoor lighting shall be located and shielded so as to direct light away from adjacent residential properties.
5. All outdoor speakers shall be directed away from adjacent residentially-zoned properties. Outdoor speakers may not be placed within 100 feet of the property line of any adjacent residentially-zoned property.
6. On Sundays through Thursdays, amplification of outdoor music shall cease by 9:00 PM. On Fridays and Saturdays, amplification of outdoor music shall cease by 10:00 PM.
7. Final Site Plan Review approval and all applicable permits must be obtained from the Planning and Zoning Official prior to commencement of site improvements.
8. A Type C landscape buffer with a six-foot high opaque fence or wall shall be constructed, planted and maintained along the south, west, and east sides of subject property where subject property abuts residentially-zoned property.

9. If the Board of County Commissioners approves the vacation of any streets adjacent to this private park then the special exception shall extend to and include the adjacent street right-of-way to the extent that said streets revert back to the adjacent property owned by this applicant or their successor.
10. The maximum height of all structures permitted in this private park shall be 38 feet unless a modification of this special exception is approved by the Board of Zoning Appeals.
11. The owner is required to obtain Site Plan Review approval for all phases of development of this private park prior to issuance of building permits and construction of each phase of development of this private park.
12. The applicant will make whatever improvements to Beechwood Street as required by the County Engineer and the Site Plan Review process.
13. The park operating hours shall be from 10:00 AM to dusk, with the exception of special events as provided herein; maintenance activities shall not begin any earlier than 8:00 AM.
14. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

IX. **Public Comments - None**

X. **Staff Comments –**

Mr. Cullinan said we have 2 items for next month.

XI. **Member Comments –**

Mr. McVety asked about a concrete plant which promised to put up a fence/buffer and he does not see anything yet.

Ms. Nocheck said that is Universal and they just applied for site plan review. That includes the fence/buffer.

XII. **Next Meeting**

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, July 8, 2020 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:08 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc



Blair McVety, Chair

Approval Date: _____

7-8-2020